

# **Parkland Dedication Ordinance**

## **1) What is the Parkland Dedication Ordinance (PDO)?**

The PDO is a law enacted by the City Council to help provide neighborhood park and recreation facilities to meet the needs generated by residents of new housing units ( SJMC 19.38). Copies of the current Ordinance and Park Fee Schedule are available from the Community Development Division. Please call 408-794-1388 for more information.

## **2) What are the requirements of the Ordinance?**

The PDO requires all residential subdivisions to dedicate land or pay in-lieu fees for any net increase in residential units. The standard under the PDO for land dedication or payment of in-lieu fees is three acres per 1000 new residents. In-lieu fees may be paid for subdivisions not required to dedicate parkland (for example, residential subdivisions of 50 or fewer parcels.) Subdividers paying in lieu fees are required to pay fees in full or enter into a binding parkland agreement prior to receiving approval of their final tract or parcel map. If the subdivider enters into a Parkland Agreement, payment of the fees specified in the Parkland Agreement are deferred until the subdivider pulls the first building permit for the project or the one year anniversary of recordation of the final tract or parcel map for the project, whichever occurs first. See PDO fee schedules for current fee amounts.

## **3) What is the Parkland Agreement?**

The Parkland Agreement is a contract between the City and the subdivider that sets forth the subdivider's obligations under the PDO. Depending on the conditions imposed on the development through the Tentative Map, the Parkland Agreement may specify one or more of the following: dedication of land, payment on in-lieu fees or installation of public park improvements by the subdivider. The Parkland Agreement will also specify any credits for private recreation improvements to be installed in the development. Contact Public Works - Development Services to set up an appointment to discuss preparation of the Parkland Agreement.

**4) If I build low income housing, do I still have to dedicate parkland or pay in-lieu fees?** Low-income residential units are eligible to receive a Low-Income Unit Voucher from the City for any units qualifying as low income units under California Redevelopment Law. An affordability restriction must be recorded on each low-income unit prior to recordation of the final subdivision or parcel map. Contact Development Services for more information at 408-277-5161.

## **5) If I build housing downtown, do I still have to dedicate land or pay fees?**

Residential subdivisions in the Downtown Core and downtown frame area are no longer exempt from PDO requirements. Parkland fees to be paid in full at the time of final map or parcel map approval, or as specified in an executed Parkland Agreement with the subdivider, are the fees in effect at the time the tentative subdivision map is approved. Please refer to the Park Fee Schedule for the Parkland Fees in effect currently.

## **6) Do I receive credit for building private recreation amenities in my subdivision?**

Yes, you can receive up to 50% credit against PDO requirements for qualified private recreation improvements constructed in certain subdivisions. To be eligible for these credits, subdividers must provide at least one of the following active elements in their project: tot lot, picnic area, game court (uses such as tennis, basketball, handball, racquetball or roller hockey) and/or turf playing field (contiguous turf area). Additional credits for swimming pool and recreation building square footage can be received in an amount equal to the total square footage of one or more of the active elements listed above or the total square footage of the swimming pool/recreation building, whichever is less.

Private recreation improvements shall be owned and maintained by an incorporated nonprofit homeowners association composed of all property owners in the subdivision. A Parkland Agreement is required to receive these credits.

### **7) If the City requires that public neighborhood park and recreation improvements be provided, do I still have to dedicate land and/or pay fees?**

When public parkland and improvements are dedicated by the subdivider, credit may be given up to an amount equal to the actual cost of the public improvements. That is, if the Director of Public Works finds that such improvements are consistent with City park construction standards, policies and practices, and that it is in the best interest of the City to accept such improvements.

### **8) If the City requires the dedication of land, how much land do I have to dedicate?**

The formula for dedication of land is: Minimum acreage dedication = .003 x Average number of persons per dwelling unit x Number of dwelling units. For example, if you were subdividing property into 50 single-family lots your parkland dedication requirement would be: .003 x 3.43 (from 1990 Census average person per household for single family detached units in San Jose) x 50 = .51 acres (or 22,412 square feet).

### **9) If the City requires the payment of fees, how much do I have to pay?**

The total fee is equal to the fee per new dwelling unit multiplied by the number of dwelling units. The fees may be reduced based on the total area of qualifying private recreation improvements and/or public parkland dedicated within the project. For example, if a project's public parkland dedication requirement is four acres, and the subdivider receives one acre of credit for private recreation facilities, then the subdivider would pay fees equivalent to only the value of three acres (75% of the total fee).

### **10) Do I have to pay fees if I build a Residential Care Facility for the elderly?**

Residential Care Facilities for the elderly may defer payment of fees if 100% of the units are covered by a license issued by the State of California to provide care to non-ambulatory elderly residents. The owner of the Residential Care Facility must enter into a fee deferment agreement with the City. Under this agreement, payment of the park fee is deferred until such time that the facility no longer meets the eligibility requirements for a Residential Care Facility. Please refer to the PDO for specific eligibility requirements.

**11) Can I receive credit for dedicating school property or property owned by another public agency such as the Water District?**

Subdividers can receive credit for property dedicated for a new public school if the property is used for neighborhood park and recreation purposes, and is improved with public park improvements in accordance with City standards. The subdivider must provide the City with an easement in favor of the City restricting use of the property for park and open space purposes.

Credit for property owned by another public agency may be eligible if the property is improved with public park improvements in accordance with City standards. The subdivider must secure an easement in favor of the City from the public agency allowing use of the property for park and open space purposes.

**12) Where do I go to pay fees?**

Parkland fees are paid directly to the Building Division, Room 200, City Hall Annex or to Public Works-Development Services Division, Room 308, City Hall. Contact Development Services at (408) 277-5161 for more information.

**13) Suppose I do not build any units within one year after the recording of the final map. Where should I send the fee payment?**

The procedure outlined above for Question 2 applies even if no building permits are pulled within the year after the final map is recorded. Parkland fees paid later than one year after recordation of the final map will be assessed late charges and penalties.